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6 IN THE UNITED STATES DISTRICT COURT
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8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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10 JUAN and JUANA DOMINGUEZ,

11 Plaintiff,

No. 09-3611 EDL

12 v.
13 EXCEL MANUFACTURING, INC.,

**ORDER DENYING MOTION TO
BIFURCATE WITHOUT PREJUDICE**

14 Defendant.
15 _____/

16 This is a personal injury action against a machine manufacturer relating to injuries sustained by
17 Plaintiff during his use of a “horizontal baler” machine” in the course of his employment. Defendant
18 has filed a motion to bifurcate trial of liability from trial of damages pursuant to Rule 42(b), on
19 grounds that separate trials would promote convenience and judicial economy while not resulting in
20 prejudice to any party.


21 The question of whether to bifurcate a trial is a matter committed to this Court’s discretion.
22 See, e.g., Danjaq LLC v. Sony Corp., 263 F.3d 942, 961 (9th Cir. 2001). Federal Rule of Civil
23 Procedure 42(b) provides: “The court, in furtherance of convenience or to avoid prejudice, or when
24 separate trials will be conducive to expedition and economy, may order a separate trial of any claim,
25 cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims,
26 cross-claims, counterclaims, third-party claims, or issues, always preserving inviolate the right of
27 trial by jury as declared by the Seventh Amendment to the Constitution or as given by a statute of
28 the United States.” When deciding whether to bifurcate, courts consider: (1) whether separate trials
would be in furtherance of convenience; (2) whether separate trials would avoid prejudice; (3)
whether separate trials would serve judicial economy; (4) whether separate trials would reduce the

1 risk of jury confusion; and (5) whether the issues are clearly separable. See William W. Schwarzer,
2 Civil Procedure Before Trial, § 16:160.4 (The Rutter Group 2005).

3 Having considered these factors, as well as the considerations discussed in Hamm v. Am.
4 Home Products, 888 F. Supp. 1037 (E.D. Cal. 1995) and Tuey v. Mammoth Mountain Ski Area,
5 2009 WL 928328 (E.D. Cal. 2009), the Court hereby DENIES the motion to bifurcate without
6 prejudice. The Court generally disfavors bifurcation, but Defendant is not prohibited from raising
7 the issue in a motion *in limine* if it believes in good faith that it can make a stronger showing.

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9 **IT IS SO ORDERED.**

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11 Dated: October 4, 2010

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13 ELIZABETH D. LAPORTE
14 United States Magistrate Judge
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